

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,590

IN THE MATTER OF:

Served May 15, 2015

DANIEL M MANNA, Trading as DANIEL)	Case No. MP-2014-027
MANNA LIMO SERVICE, Suspension and)	
Investigation of Revocation of)	
Certificate No. 2158)	

This matter is before the Commission on respondent's failure to respond to Order No. 15,267, served December 30, 2014.

I. BACKGROUND

Certificate No. 2158 was automatically suspended on February 18, 2014, pursuant to Regulation No. 58-12, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 14,571, served February 18, 2014, noted the automatic suspension of Certificate No. 2158, directed respondent to cease transporting passengers for hire under Certificate No. 2158, and gave respondent 30 days to replace the terminated endorsement and pay the \$100 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 2158.

Respondent paid the \$100 late fee on February 21, 2014, but did not timely submit a replacement WMATC Endorsement, and Certificate No. 2158 was revoked on June 5, 2014, in Order No. 14,814. Respondent subsequently filed an acceptable \$1.5 million primary WMATC Endorsement and timely filed an application for reconsideration of the revocation of Certificate No. 2158.

The effective date of the replacement endorsement is June 9, 2014, instead of February 18, 2014. Under Regulation No. 58-14:

If a carrier's operating authority is suspended under Regulation No. 58-12 and the effective date of a later-filed replacement Endorsement falls after the automatic suspension date, the carrier must verify timely cessation of operations in accordance with Commission Rule No. 28 and corroborate the verification with client statements and/or copies of pertinent business records, as directed by Commission order.

In Order No. 14,946, served July 25, 2014, we denied respondent's request for reconsideration, but consistent with WMATC precedent, we reopened the proceeding under Rule No. 26-04, and reinstated Certificate No. 2158. In accordance with Regulation No. 58-14, Order No. 14,946 also directed respondent to verify

cessation of operations as of February 18, 2014, and required respondent to corroborate its verification statement with copies of pertinent business records from December 1, 2013, to July 25, 2014.

II. RESPONSE TO ORDER NO. 14,946

On September 5, 2014, respondent submitted the following statement:

I Daniel Manna (Daniel Manna Limo Service) #2158 is writing this letter to let you know that, during February 18, 2014 to February 21, 2014 which I did not have insurance coverage, I did not work during those dates. Thank you

Respondent's document production consisted of five e-mails sent to respondent by Uber Technologies, Inc., a transportation network company connecting passengers with transportation providers, including WMATC carriers, through the use of mobile-app technology.¹ The five emails advise respondent of the date that funds will be deposited into respondent's bank account in payment of invoices presented to Uber for services rendered by respondent in the "DC" area, apparently from February 17, 2014, through June 22, 2014, as follows:

Invoice Date	Payment Amount
2/17-2/23, 2014	\$939.20
3/17-3/23, 2014	\$935.20
4/21-4/27, 2014	\$860.80
5/19-5/25, 2014	\$260.80
6/16-6/22, 2014	\$560.00

III. PRELIMINARY FINDINGS

In Order No. 15,267, we found that respondent's statement was deficient. Although respondent acknowledged not having any insurance from February 18, 2014, to February 21, 2014, the lapse in WMATC Insurance Endorsement coverage extended beyond February 21, 2014, to June 9, 2014, as noted above. Respondent's statement did not take this into account. And respondent's statement did not take into account that WMATC Certificate No. 2158 was not reinstated until July 25, 2014.

We further found that respondent's document production was deficient. Order No. 14,946 specifically directed respondent to produce customer contracts, customer invoices, and bank statements, but respondent failed to produce any such records and failed to explain why such documents were not produced.

The few records that respondent did produce appeared to show a pattern of payments for passenger transportation services rendered by

¹ *In re Four Points Transp. & Moving Inc.*, No. AP-12-111, Order No. 13,695 (Jan. 23, 2013).

respondent from mid-February 2014 to late June 2014 under the auspices of Uber while Certificate No. 2158 was suspended/revoked and while said services were for the most part not covered by any WMATC Insurance Endorsement.

IV. ORDER TO SHOW CAUSE

Considering that respondent had apparently failed to produce all pertinent business records and had not denied transporting passengers for hire from February 22, 2014 to July 25, 2014, and because the documents respondent did produce indicated that respondent transported passengers for hire in the Washington Metropolitan Area while Certificate No. 2158 was suspended/revoked and respondent was for the most part not covered by any WMATC Insurance Endorsement, Order No. 15,267 gave respondent 30 days to show cause why the Commission should not assess a civil forfeiture against respondent, and/or suspend or revoke Certificate No. 2158, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

Respondent has yet to respond.

V. ASSESSMENT OF FORFEITURE AND REVOCATION OF AUTHORITY

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.²

The Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.³

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁴ The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by careless disregard whether or not one has the right so to act.⁵

Because respondent has (1) failed to verify whether it ceased operating while suspended/revoked and uninsured from February 22, 2014, through June 8, 2014, and while suspended/revoked from June 9, 2014, through July 24, 2014; (2) failed to produce the documents required by Order No. 14,946; and (3) offered no explanation for these failures; we find that respondent has failed to show cause why the

² Compact, tit. II, art. XIII, § 6(f).

³ Compact, tit. II, art. XI, § 10(c).

⁴ *In re Fon Pius Nde, t/a Piusmed World Transp.*, No. MP-07-187, Order No. 11,362 (May 15, 2008).

⁵ *Id.*

Commission should not assess a civil forfeiture of \$250⁶ and revoke Certificate No. 2158.⁷

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent in the amount of \$250 for knowingly and willfully violating Order No. 14,946.

2. That respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

3. That pursuant to Article XI, Section 10(c), of the Compact, Certificate of Authority No. 2158 is hereby revoked for respondent's willful failure to comply with Order No. 14,946.

4. That within 30 days from the date of this order respondent shall:

- a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
- b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 2158 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.
Executive Director

⁶ See *id.* (assessing \$250 for failing to produce verification and documents).

⁷ See *id.* (revoking authority for failing to produce verification and documents).